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08/067140

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/067.140 05/25/93 HORI

K HORI101AX

EXAMINER

F3M1/0627

LEUBECKER, J

WEINGARTEN, SCHURGIN, GAGNEBIN & HAYES
TEN POST OFFICE SQUARE
BOSTON, MA 02109

ART.UNIT.

PAPER NUMBER

3302

DATE MAILED: 06/27/94

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire _____ month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-33 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☐ Claims _____ are rejected.
5. ☐ Claims _____ are objected to.
6. ☒ Claims 1-33 are subject to restriction or election requirement.
7. ☐ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

Art Unit: 3302

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-4, drawn to an endoscope with concentric fibers, classified in Class 128, subclass 6.

Group II. Claims 5-12, drawn to an endoscope with rotatable coaxial tubes, classified in Class 128, subclass 4.

Group III. Claims 13-19, 32, and 33, drawn to a stereoscopic endoscope, classified in Class 348, subclass 45.

Group IV. Claims 20-24, drawn to an endoscope with a movable imaging tube, classified in Class 128, subclass 6.

Group V. Claims 25-31, drawn to an endoscope with a focusing feature, classified in Class 128, subclass 4.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I, II, III, IV and V are disclosed as different combinations which are not connected in design, operation or effect. These combinations are independent if it can be shown that (1) they are not disclosed as capable of use together, (2) they have different modes of operation, (3) they have different functions, or (4) they have different effects. (MPEP 806.04, MPEP 808.01). In the instant case the combinations exhibit the characteristics of (1)-(4) above in relation to one another. The invention of group II differs from that of group I in that the former requires a rotatable coaxial tube. The invention of group

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III is directed to a stereoscopic endoscope. The invention of group IV requires a rotatable second tube which contains the imaging elements. The invention of group V is directed to a focusing mechanism. Since the endoscope art is considered a "crowded" art in that an endoscope is limited to certain basic elements, a search for different and distinct features relating to these elements is burdensome for the examiner.

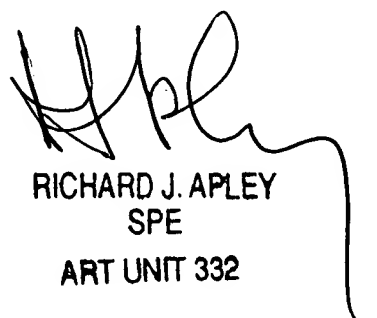
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. A telephone call was made to Chris Daley on June 24 to request an oral election to the above restriction requirement, but did not result in an election being made.

5. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Leubecker whose telephone number is (703) 308-0951.


J. Leubecker
June 24, 1994


RICHARD J. APLEY
SPE
ART UNIT 332